

ORIGINAL

Before the  
COPYRIGHT ROYALTY BOARD  
Washington, DC

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Copyright Royalty Board

In the Matter of )

Distribution of the )  
2004 and 2005 Cable Royalty Funds )

Docket No. 2007-3 CRB CD 2004-05

**MUSIC CLAIMANTS' OPPOSITION TO MOTION TO RECONSIDER**

Broadcast Music, Inc. ("BMI"), the American Society of Composers, Authors and Publishers ("ASCAP"), and SESAC, Inc., collectively known as the Phase I Music Claimants group, submit this Opposition to the Program Suppliers' Motion to Reconsider the Order of the Copyright Royalty Judges ("Judges"), dated January 16, 2008, striking the Program Suppliers' July 16, 2007 Petition to Declare Controversy and Initiate a Phase I Proceeding for the Distribution of the 2004 and 2005 Cable Royalty Funds. ("July 16, 2007 Petition"). Although Music Claimants agree with the Program Suppliers that the requirements of 37 C.F.R. §351.1(b)(2) do not apply to the July 16, 2007 Petition, Music Claimants are concerned that the Program Suppliers are seeking to have a 2004-2005 proceeding leap frog over older distribution proceedings that are currently pending.

Section 351.1(a) of title 37, Code of Federal Regulations, states that "All proceedings before the Copyright Royalty Judges ... to authorize distribution of royalty fees shall be initiated by publication in the Federal Register of a notice of the initiation of proceedings calling for the filing of petitions to participate in the proceeding." This tracks the statutory language in 17 U.S.C. § 804(b)(8). Once a proceeding has been initiated, the regulations set forth a timetable for a series of actions by the parties, beginning with the filing of petitions to participate within 30

days after the publication of the notice of commencement of the proceeding. *See* 37 C.F.R. 351.1(b)(3). Music Claimants believe that, prior to the initiation of a proceeding that is not the next in chronological sequence, the Judges should solicit comments from interested parties as to whether such a proceeding should be initiated. This is particularly appropriate given the current number of cable and satellite distribution proceedings awaiting adjudication.

In comments filed in response to an August 14, 2007 notice issued by the Judges in connection with the distribution of the 2003 Cable Royalty Fund, Music Claimants noted that:

Phase II controversies for the distribution of cable royalties and Phase I satellite distribution proceedings, both dating back to 1999, remain unresolved and await scheduling. Consistent with the historical practice of the Copyright Royalty Tribunal and the Copyright Office of adjudicating distribution proceedings chronologically, Music Claimants believe that after resolving any remaining disputes concerning 1999 royalties, the CRJs should schedule the 2000-2003 cable proceeding, with the 2004-2005 cable proceeding to be scheduled subsequently.

Comments of Music Claimants, In the Matter of Distribution of the 2003 Cable Royalty Fund, Dkt. No. 2005-4 CRB CD 2003, Sept. 19, 2007. Music Claimants continue to believe that historical practice, judicial efficiencies gained by adjudicating distribution proceedings chronologically, and equity require that existing controversies that pre-date the 2004-05 cable royalty fund be adjudicated before the 2004-05 proceeding is commenced. The July 16, 2007 Petition seeks to have the 2004-05 cable proceeding cut to the front of the distribution proceeding line, and therefore should be denied.

Respectfully submitted,

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I hereby certify that on this 29<sup>th</sup> day of January, 2008, a copy of the foregoing Opposition to Motion to Reconsider was sent by Federal Express to the individuals listed below:

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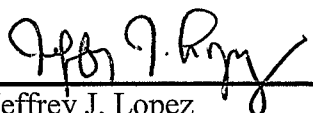
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